



**DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
ENFORCEMENT DIVISION
DIRECTIVE**

**DIRECTIVE NUMBER
206**

**DISTRIBUTION DATE
May 1, 2002**

**1. SUBJECT: ACCEPTANCE OF COMPLAINTS AGAINST EMPLOYERS OF
LESS THAN FIVE EMPLOYEES**

2. PURPOSE: To set forth the procedures for identifying situations in which the Department of Fair Employment and Housing (DFEH) has jurisdiction over complaints against employers of less than five (5) employees.

3. BACKGROUND: Generally, the Fair Employment and Housing Act (FEHA) applies only to employers of at least five employees. Certain provisions of the FEHA, however, extend jurisdiction to employers of less than five employees. This Directive identifies the situations in which DFEH complaints may be accepted against such entities.

4. PROCEDURES:

DFEH has jurisdiction over complaints against employers of less than five employees in any of the following situations:

A. Public Entities:

The employer is a public entity such as the State of California, any political or civil subdivision thereof, counties, cities, local agencies, or special districts (Gov. Code, § 12926, subd. (d); Cal. Code Regs., tit. 2, § 7286.5, subd. (a)(4)).

B. Harassment:

The complainant alleges harassment due to any protected basis (Gov. Code, § 12940, subd. (h)(3)(A)).

Complainants include not only persons regularly employed by the employer, but also persons providing services pursuant to a contract.

C. Harassment and Other Adverse Acts Arising From the Harassment:

The complainant alleges harassment and other adverse acts that directly arise from the harassment.

EXAMPLE: *Accept* a complaint against an employer with less than five employees in which the complainant alleges that he/she was terminated for refusing to submit to sexual advances, or for objecting to racial or other harassment on any basis enumerated in the FEHA.

Do not accept a complaint against an employer with fewer than five employees in which there is no underlying act of harassment. For example, the complainant alleges termination because of race and views the termination as an act of harassment. Absent other allegations of harassment, the act of harm is restricted to termination and the complaint analyzed for jurisdiction accordingly.

5. **APPROVAL:**

Dennis W. Hayashi, Director

Date